

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

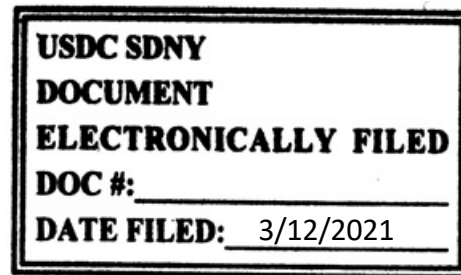
SM Kids, LLC, as successor-in-interest to
Stelor Productions, LLC,

Plaintiff,

-against-

Google LLC et al.,

Defendants.



1:18-cv-02637 (LGS) (SDA)

ORDER

STEWART D. AARON, United States Magistrate Judge:

Following a telephone conference with the parties on March 11, 2021, and for the reasons stated on the record, it is hereby Ordered as follows:

1. No later than Thursday, March 18, 2021, the parties shall submit a joint letter regarding any request to extend the deadline for the completion of fact and expert discovery.
2. No later than, Friday, March 26, 2021, the parties shall submit the following exemplar documents for the Court's *in camera* review:
 - a. The 18 privilege log entries regarding Matt Mazer.¹ (See 3/9/2021 Joint Letter, ECF No. 211, at 4.)
 - b. Three exemplars for each person (and from each side) for the following employees/directors of Stelor Productions LLC: Steve Esrig, Jeff Linowes, Mark

¹ Upon further reflection following the telephone conference with the parties, the Court has increased the total number of exemplars to be submitted by each side, including with respect to Mr. Mazer.

Silverman, Barry Wilson, Scot Thomas, and Sam Wilson. (3/9/2021 Joint Letter at 5-6.)

c. Six exemplars from each side prior to May 3, 2011 regarding Roger Shiffman. (3/9/2021 Joint Letter at 6-7.)

d. Four exemplars from each side regarding Ted Koenig. (3/9/2021 Joint Letter at 7-8.)

e. Four exemplars each regarding Sydne Garchik, Sandy Garchik Katzman, Lori Esrig, Rob Rothstein, Bruce Auerbach and Tara Cohen. (3/9/2021 Joint Letter at 9-10.)

3. The parties shall meet and confer regarding the remaining disputes involving Zach Dennis, Michael Levine, Tim Quinn and Tom Shane (*see* 3/9/2021 Joint Letter at 11-12) and, if they cannot, agree shall each submit one exemplar for each individual no later than Friday, March 26, 2021.

4. The parties shall meet and confer regarding the alleged “Irregularities in the Third Parties’ Privilege Logs.” (3/9/2021 Joint Letter at 12.)

5. No later than April 1, 2021,² Defendants shall file a comprehensive brief with respect to:

a. The appropriate legal standard, following the New York Court of Appeals decision in *Ambac Assur. Corp. v. Countrywide Home Loans, Inc.*, 27 N.Y.3d 616, 624 (2016), regarding whether and/or under what circumstances the

² The deadlines in this Order supersede any deadlines set forth in the Court’s March 10, 2021 Order. (*See* 3/10/2021 Order, ECF No. 219.)

attorney-client privilege is waived if communications are shared with agents of either the client or the attorney and, assuming a necessity requirement, why the presence of agents was required to enable the attorney-client communication on any exemplar documents before the Court (*see* 3/10/2021 Order, ECF No. 219); and

b. All remaining disputes regarding privilege issues. Any issue not raised shall be deemed waived.

6. Plaintiff shall file its response no later than April 22, 2021 and Defendant shall file any reply no later than May 6, 2021. The Court will hold oral argument via telephone on Tuesday, May 11, 2021 at 2:00 p.m. At the scheduled time, the parties shall each separately call (888) 278-0296 (or (214) 765-0479) and enter access code 6489745.

SO ORDERED.

DATED: New York, New York
March 12, 2021



STEWART D. AARON
United States Magistrate Judge